OIPE IAP68
JAN 09 2006
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	)	FOR: FOOD OR EDIBLE MATERIAL AND BEVERAGES: PROCESSES, COMPOSITIONS, AND PRODUCTS
William D. Holloway, et al.	)	
Serial No.: 10/680,771	)	
Filed: October 7, 2003	)	Group Art Unit: 1761

PETITION FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Petitions Office

Dear Sir:

This Petition for Acceptance of an Unintentionally Delayed Claim for Priority requests approval for addition of claims of priority to two applications, Serial No. 10/301,416, and Serial No. 10/470,655. Both of these applications claim priority to application Serial No. 09/698,537 (the "grandparent"), to which the present application also claims priority. The two applications are intervening applications between the present application and the grandparent, and are needed to provide complete the chain of continuity between the present application and the grandparent. Being filed herewith are a Preliminary Amendment that amends the specification to include the corrected priority information along with a check for the petition fee set forth in 37 CFR 1.17(t)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

December 30, 2005
(Mailing Date)
Eleanor M. Musick
(Registered Representative)
(Signature)

01/04/2006 MBIZUNES 00000009 10680771
01 FC:1454 1370.00 OP

111674.000005/577894.01

REMARKS

Upon review of the application it was discovered that the application as filed had inadvertently omitted reference to application No. 10/301,416, although priority to its parent, grandparent application No. 09/698,537, was claimed. Application No. 10/301,416, filed November 21, 2002, was co-pending with the '537 application, but was later abandoned after the present application was filed. The claim of priority to Application No. 10/301,416 is necessary to provide continuity between the '537 application and the present application.

Another intervening application, No. 10/470,655, had been filed prior to the issue of grandparent application. The '655 application was originally filed on February 14, 2003 as a Continued Prosecution Application (CPA) that was later deemed by the Patent Office to be improper. Notice that the CPA was not accepted was issued August 16, 2004. A petition to convert the CPA to a continuation application was filed on November 22, 2004. This petition was granted on August 26, 2005, at which time the serial number was assigned.

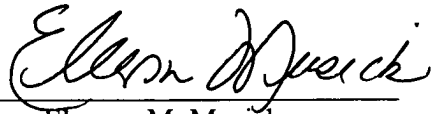
Accordingly, the present petition seeks to add the claim of priority to both intervening applications in order to ensure complete continuity data and to reference all related applications. The accompanying Preliminary Amendment amends the Related Applications listing to reflect this correction.

Being filed herewith is a check for the petition fee set forth in 37 CFR 1.17(t). Any additional fees due should be charged, and any overpayment credited, to Deposit Account No. 50-2075.

If the processing of this Petition can be so expedited, the Petitions Examiner is invited to telephone the undersigned attorney for Applicants at the telephone number indicated below.

Respectfully submitted,

Dated: December 30, 2005

By: 

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PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL for FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 1,370.00

Complete If Known	
Application Number	10/680,771
Filing Date	October 7, 2003
First Named Inventor	William D. Holloway
Examiner Name	Not Yet Assigned
Art Unit	1761
Attorney Docket No.	P1CIP4 (111674-0005)

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-2075 Deposit Account Name: Procopio, Cory, Hargreaves & Savitch LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
☐ Charge fee(s) indicated below, **except for the filing fee**
☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		Extra Claims	Fee ($)		Fees Paid ($)
_____	- 20 or HP =	_____	x _____	=	_____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims		Extra Claims	Fee ($)		Fees Paid ($)
_____	- 3 or HP =	_____	x _____	=	_____

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	_____	/50=	_____	(round **up** to a whole number) x	_____	=	_____

4. OTHER FEE(S)

	Fee Paid ($)
Non-English Specification,	
Other (e.g., late filing surcharge): Petition Fee for Acceptance of an Unintentionally Delayed Claim for Priority	1,370.00

SUBMITTED BY

Signature	Eleanor M. Musick	Registration No. 35,623 (Attorney/Agent)	Telephone 760-931-9700
Name (Print/Type)	Eleanor M. Musick		Date December 30, 2005